

REMARKS

The applicant respectfully requests reconsideration of claims 30-32, 34-41 and 45-48 in view of the foregoing amendment, and consideration of new claims 50-62. The allowance of claims 42-44, and the indication that claims 33, 35, 36-38 and 45-49 incorporate allowable subject matter, is noted and appreciated.

A. An objection is raised to the specification at pages 2 and 33.

The objection concerns the need to update references to patent applications with serial number information and, where possible, with issued patent numbers as well. The present amendment includes an amendment to page 33 of the specification (three paragraphs), providing the requested information.

With respect to page 2, the information (application serial number only, no patent number) remains current.

B. Claims 30-32, 34, 36-38 and 45-49 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 5,697,969, Schmitt et al.

Claim 30 has been amended to incorporate the subject matter of original claim 33, now cancelled. Accordingly, it is submitted that claim 30 as amended is in condition for allowance, along with the claims that depend on claim 30, namely claims 31-32 and 34-41.

Claim 45 has been amended to incorporate the subject matter of original claim 49, now cancelled. Accordingly, it is submitted that claim 45 as amended is in condition for allowance, along with claims 46-48 which depend on claim 45.

New claim 50 is similar to original claim 30, with the additional feature that the annealed diameter D is selected based on a predetermined radially outward force to be provided by the annealed prosthesis structure when radially compressed to a predetermined fraction of the annealed diameter D.

Although the Schmitt patent teaches that different material makeup can influence radial force (column 7, Figures 15A-F), the force involved is not a radially outward force, but instead a radially inward force. More specifically, what is measured in Schmitt is a radial compliance, found by subjecting a prosthesis to internal positive pressure and measuring the radial

displacement. Accordingly, the measurement focuses on the degree to which the tendency to resist radially outward expansion is overcome, not the capacity to resist radially inward force (e.g. from surrounding tissue).

Secondly, and perhaps more fundamentally, no relationship is suggested between radial force of any nature, and the diameter at which the prosthesis structure is annealed.

Accordingly, the Schmitt patent does not suggest the process of claim 50.

Claim 59 is directed to a product made according to a process similar to that defined in original claim 45, further defined in that the prosthesis structure consists essentially of bioabsorbable filaments. The Schmitt patent teaches structures that incorporate bioabsorbable filaments, but only in the context of composite structures that also include non-bioabsorbable materials. Moreover, in Schmitt it is the non-bioabsorbable materials that determine, at least primarily, the structural characteristics and behavior of the device. For example, note column 3, lines 36-39, where Schmitt teaches that the structural characteristics of the fabric do not change as the resorbable material is absorbed.

Accordingly, it is submitted that the Schmitt patent fails to teach or suggest the prosthesis defined in claim 59.

To summarize, it is submitted that claims 30-32, 34-41 and 45-48 as amended, along with new claims 50-62, incorporate subject matter patentable over the prior art of record. An early and favorable action allowing these claims, along with presently allowed claims 42-44, is requested.

Respectfully submitted,

Boston Scientific Scimed Inc., f/k/a Schneider
(USA) Inc

Dated: July 10, 2003

By: Frederick W. Niebuhr
Frederick W. Niebuhr
Registration No. 27,717



23452

PATENT TRADEMARK OFFICE

CERTIFICATE OF MAILING

Pursuant to 37 CFR 1.8, I hereby certify that this Amendment in Application Serial No. 09/843,425 is being deposited with the U.S. Postal Service by first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date of deposit indicated below.

Date of Deposit: July 10, 2003

850176.1



Geralyn M. Vita